

Message Text

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PAGE 01 STATE 198191
ORIGIN L-03

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C O N F I D E N T I A L STATE 198191

E.O. 11652: GDS

TAGS: PBOR, PN

SUBJECT: TREATY NEGOTIATIONS: TREATY DRAFTS

REF: PANAMA 5857

1. FOLLOWING ARE OUR COMMENTS ON TEXT REPORTED REFTEL.

2. CLAIMS (U.S. IMPLEMENTING AGREEMENT ARTICLE XXI):

(A) WE DO NOT UNDERSTAND THE CHANGES TO PARA 1(B),
BUT BELIEVE YOU HAVE CREATED UNDESIRABLE AMBIGUITY.
WAIVER OF CLAIMS APPEARS LIMITED, DUE TO YOUR PLACEMENT
OF COMMAS, TO CLAIMS LESS THAN 1400 DOLLARS WHICH ARE IN
EXISTENCE AT ENTRY INTO FORCE OF THE AGREEMENT, AND WE
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KNOW YOU DO NOT INTEND THIS. WOULD YOUR PURPOSE BE ACCOM-
PLISHED BY CHANGING CLAUSE "WHICH ARE OF EQUAL VALUE"
TO "WHICHEVER IS OF GREATER VALUE", AND DROPPING YOUR PRO-
POSED NEW LANGUAGE? REASON: VALUES MAY NOT BE EQUAL
THROUGHOUT TREATY TERM, IN WHICH CASE THERE WOULD BE NO
CLEAR VALUE LINE DRAWN IN TREATY WITHOUT CHANGE WE SUGGEST.

(B) IF PANAMA INSISTS ON ADDITION TO PARAGRAPH 4, LAST SENTENCE, THEN, AS A MATTER OF DRAFTING CLARITY, THE WORDS "CONCERNING THE MATTER" SHOULD BE DELETED. WE WOULD PREFER NO CHANGE AT ALL, SINCE PRESENT TEXT MORE SUCCINCTLY

AND CLEARLY EXPRESSES THE THOUGHT. AN ALTERNATIVE WOULD BE TO REPLACE "THE MATTER" IN PRESENT TEXT BY "THAT CLAIM", WITHOUT PROPOSED ADDITION.

(C) IN PARAGRAPH 5, FIRST SENTENCE, WORDS "UNITED STATES CITIZEN" SHOULD BE DELETED, SINCE PROVISION SHOULD COVER PANAMANIAN AND OTHER NON-U.S. EMPLOYEES OF THE COMMISSION. ALTHOUGH A CHANGE TO THE U.S. DRAFT, THIS OBVIOUSLY BENEFITS PANAMA.

(D) RE NEW PARAGRAPH 6, WE ARE SENDING YOU COMMENTS BY SEPTEL, ALONG WITH OTHER COMMENTS ON CLAIMS ARTICLE.

3. USE OF LAND AND WATER AREAS (U.S. IMPLEMENTING AGREEMENT ARTICLE IV).

(A) CHANGE TO PARAGRAPH 3 IS ACCEPTABLE.

(B) WE RECOGNIZE THAT THE TWO CHANGES IN PARAGRAPH 4 WERE MADE TO TEXT BROUGHT BACK BY NEGOTIATORS A WEEK AGO WEDNESDAY, BUT BOTH RAISE SOME CONCERN. THE FIRST MAY
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APPEAR TO LIMIT UNDULY U.S. RIGHTS IN ANCHORAGES, AND THE SECOND MAY IMPLY THAT WE DO NOT ENJOY THE ENNUMERATED RIGHTS IN OTHER CANAL OPERATING AREAS. SUGGEST REVERSION TO ORIGINAL U.S. TEXT.

(C) CHANGE TO PARAGRAPHS 5 AND 7 ARE UNOBJECTIONABLE.

(D) RE PARAGRAPH 8:

(I) WE ARE CONCERNED OVER EXCLUSION OF HOUSING AREAS FROM PROTECTION BY WATCHMEN.

(II) SECOND SENTENCE SHOULD BE REVISED TO READ:
"SUCH WATCHMEN SHALL NOT HAVE POWERS OF ARREST OR OTHER GENERAL POLICE POWERS; THEY MAY, HOWEVER, TEMPORARILY DETAIN PERSONS BELIEVED TO BE COMMITTING OR TO HAVE COMMITTED" RATIONALE: PERSONS REASONABLY SUSPECTED OF HAVING COMMITTED AN OFFENSE SHOULD NOT BE EXEMPT FROM DETENTION MERELY BECAUSE THE CRIMINAL ACT HAS BEEN COMPLETED.

(III) USE OF WORD "HANDGUNS" WE ASSUME OBVIATES NEED

TO DEAL WITH QUESTION OF "SMALL ARMS" RAISED IN PARAGRAPH
2(B) OF PANAMA 5821. VANCE

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